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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 SETH WITTNER,

11 Defendant.

Case No. 2:17-cr-0005-KJD-NJK
Related Case: 2:18-cv-1085-KJD

ORDER

12 Before the Court is Seth Wittner's amended motion to vacate his sentence under 28
13 U.S.C. § 2255 (ECF No. 48). Also before the Court is Mr. Wittner's motion for ruling due to the
14 COVID-19 public health emergency (ECF No. 51). Mr. Wittner requests an expedited ruling on
15 his petition given his apparent increased risk of contracting COVID-19 while in prison and his
16 overall susceptibility to the disease as a nearly seventy-year-old inmate. Rule 4(b) of the Rules
17 Governing § 2255 Petitions requires the Court to promptly review each § 2255 petition. If the
18 Court cannot summarily dismiss the petition, it must order the United States attorney to respond.
19 The United States does not oppose an expedited ruling (ECF No. 52) and has not yet responded
20 to Wittner's underlying petition.

21 The Court has performed a preliminary review of Mr. Wittner's petition and determines
22 that a response would aid the Court's analysis. Additionally, because Mr. Wittner's petition
23 raises several claims of ineffective assistance of counsel, the Court finds that an affidavit from
24 Mr. Wittner's former counsel, Michael Pariente, would also aid in its resolution of the petition.

25 Accordingly, **IT IS HEREBY ORDERED** that the attorney-client privilege in 2:17-cr-
26 0005-KJD-NJK between Seth Wittner and attorney Michael Pariente shall be deemed waived for
27 all purposes related to Mr. Wittner's § 2255 petition to vacate. Former defense counsel, Michael
28 Pariente, shall, within seven days of entry of this order provide Assistant United States Attorney

1 Elizabeth White an affidavit concerning all information known to him related to the claims in
2 Mr. Wittner's petition to vacate. Further, Mr. Pariente may communicate with Ms. White and
3 any other United States attorney to provide the supporting information necessary to resolve Mr.
4 Wittner's petition.

5 **IT IS FURTHER ORDERED** that the United States shall file a response to Mr.
6 Wittner's motion to vacate (ECF No. 48), including any affidavits or documentary evidence from
7 Mr. Pariente, within twenty-one days of entry of this order. Mr. Wittner may file a reply to the
8 government's response within seven days of its entry.

9 **IT IS SO ORDERED.**

10 Dated this 31st day of March, 2020.

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Kent J. Dawson
14 United States District Judge
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